

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKSTEPHANIE VARGAS, on behalf of minor  
child Icis Rivera,

Plaintiff,

-v-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: 1-10-13  
DATE FILED: 1-10-13

No. 12 Civ. 3084 (RJS) (JCF)  
ORDER ADOPTING REPORT AND  
RECOMMENDATION

RICHARD J. SULLIVAN, District Judge:

Plaintiff Stephanie Vargas brings this action seeking review of a decision by an administrative law judge of the Bureau of Disability Insurance of the Social Security Administration. Plaintiff initiated this action by filing her Complaint on April 19, 2012. By Order dated May 29, 2012, this matter was referred to the Honorable James C. Francis IV, Magistrate Judge. Because Plaintiff never effectuated service of the Complaint and Summons in this action within the 120-day window provided in Federal Rule of Civil Procedure 4(m) (“Rule 4(m)”), Judge Francis twice issued letters to Plaintiff’s counsel – sent to counsel’s address listed on the ECF/CM system – directing counsel to submit a letter within two weeks setting forth any reasons why the action should not be dismissed. On December 20, 2012, Judge Francis issued a Report and Recommendation (the “Report”), noting that Plaintiff’s counsel never responded to either of his letters and, accordingly, recommending that the Complaint be dismissed without prejudice pursuant to Rule 4(m). In the Report, Judge Francis advised the parties that failure to file timely objections to the Report would constitute a waiver of those objections. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b). No party has filed objections to the Report, and the time to do so has expired. *See Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1993).

When no objections to a report and recommendation are made, the Court may adopt the report if there is no clear error on the face of the record. *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005); *La Torres v. Walker*, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000). After reviewing the record, the Court finds that Judge Francis's well-reasoned Report is not facially erroneous. Accordingly, the Court adopts the Report in its entirety and, for the reasons set forth therein, dismisses the Complaint in this action without prejudice pursuant to Rule 4(m). The Clerk of Court is respectfully directed to close this case.

SO ORDERED.

Dated: January 10, 2013  
New York, New York



RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE

A copy of this Order has been mailed to:

Karen Marie Tobin  
Westchester Putnam Legal Services  
4 Cromwell Place  
White Plains, NY 10601